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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,798	02/07/2003	Douglas Diane Coolbaugh	BU R920000143US1038901	8546

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EXAMINER

FARAHAN DANA

ART UNIT

PAPER NUMBER

2874

DATE MAILED: 03/21/2003

Please find below and or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/773 798

Applicant(s)

COOLBAUGH ET AL

Examiner

Dana Farahani

Art Unit

2814

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 16 02 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either (1) a timely filed amendment which places the application in condition for allowance, (2) a timely filed Notice of Appeal (with appeal fee), or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from (1) the expiration date of the shortened statutory period for reply originally set in the final Office action, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

- 1 ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
- 2 ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below).
 - (b) ☐ they raise the issue of new matter (see Note below).
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal, and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE _____

- 3 ☐ Applicant's reply has overcome the following rejection(s): _____.
- 4 ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
- 5 ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
- 6 ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
- 7 ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed _____

Claim(s) objected to _____

Claim(s) rejected 1-17

Claim(s) withdrawn from consideration _____

- 8 ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
- 9 ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 10 ☐ Other _____.

Continuation of 5 does NOT place the application in condition for allowance because Tsuchiaki teaches, as discussed in the Office Action, as a protection means for the side wall of a device. Tsuchiaki reference is then combined with AAPA (Applicant's Admitted Prior Art) for an obviousness rejection. Furthermore, siliciding surface is disclosed in AAPA and the fact that it is not in Tsuchiaki does not make the rejection inappropriate. Also, the fact that prior art does not suggest the prior art modification, does not make the rejection improper since one of ordinary skill in the art would have been motivated to change the reference, within the general knowledge available in the art, it is well known in the art that a transistor with shorted base and emitter is not suitable for most applications. Therefore, the examiner did not conclude from applicant's disclosure to combine the references. Furthermore, using passivation layer in order to overcome the shortening is notoriously known in the art, since almost all electronic device insulations layers are passive layers. For all these reasons the rejections in the previous Office Action still hold.